

COMMIT

COORDINATED MEKONG MINISTERIAL INITIATIVE AGAINST TRAFFICKING



International Cooperation on Human Trafficking Investigations & Prosecutions

GUIDING PRINCIPLES

January 2012

**VERSION FINALIZED AT
COMMIT REGIONAL CRIMINAL JUSTICE WORKSHOP**

13 JANUARY 2012 | PHNOM PENH, CAMBODIA

**PRESENTED FOR CONSIDERATION AT THE
REGIONAL COMMIT TASK FORCE MEETING**

31 JANUARY 2012 | BANGKOK, THAILAND

RECOMMENDED GUIDING PRINCIPLES: INTERNATIONAL COOPERATION ON HUMAN TRAFFICKING INVESTIGATIONS & PROSECUTIONS

Remembering the purpose of the *United Nations Convention against Transnational Organized Crime* is to promote cooperation to prevent and combat transnational organized crime more effectively (Article 1).

Recalling the purposes of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* are to prevent and combat trafficking in persons, paying particular attention to women and children; to protect and assist the victims of such trafficking, with full respect for their human rights; and to promote cooperation among States Parties in order to meet those objectives (Article 2).

Reaffirming the provisions of the *Memorandum of Understanding on Cooperation against Trafficking in Persons in the Greater Mekong Sub-Region* (the COMMIT MOU), particularly:

- Creating mechanisms to strengthen regional cooperation and information exchange, and designating a national focal point on combatting trafficking (Article 4);
- Improving regional cooperation against trafficking, in particular through bilateral and multilateral agreements (Article 5);
- Strengthening cross-border cooperation in law enforcement among the six GMS countries to combat trafficking through [the] criminal justice process (Article 12); and
- Promoting bilateral or multilateral agreements among the GMS countries to assist each other in the judicial process (Article 14).

Emphasising the *Joint Declaration of the Coordinated Mekong Ministerial Initiative against Human Trafficking (COMMIT Declaration)*, in particular:

- Reaffirming the importance of the UN Recommended Principles and Guidelines on Human Rights and Human Trafficking (Article 12);
- Firm intention to continue bilateral and multilateral consultations and collaborations between and among countries in the sub-region (both sector specific and general) as well as with regional bodies such as the ASEAN (Article 15).

INFORMAL POLICE-TO-POLICE COOPERATION

1. Law enforcement procedures must ensure that detailed information is collected in human trafficking cases of all possible victims, suspects, crime scenes and of the *modus operandi* irrespective of what countries the crime was committed in. This information should then be developed into an intelligence report that is disseminated to relevant law enforcement agencies in the source, transit and/or destinations countries.
2. Law enforcement agencies mutually affected by the crime of trafficking should conduct regular bilateral meetings to maintain professional networks and to ensure processes are in place that enable the immediate sharing of information/ intelligence when specific cases arise. The appointment of focal points and the sharing of their contact details should be considered as an effective way to facilitate and manage communication through these bilateral processes.
3. Law enforcement agencies should consider signing bilateral agreements on the sharing of information/ intelligence and on the conduct of joint investigations with their counterpart agencies from countries mutually affected by the crime of human trafficking.
4. Investigators responsible for the investigation of human trafficking should have access to joint training with colleagues from countries mutually affected by the crime of human trafficking.
5. Information/ intelligence sharing on transnational cases should be facilitated, where appropriate, by the use of commonly available means of communication such as email (encrypted where possible), telephones, letters and the use of informal face to face meetings.
6. Law enforcement agencies should consider exchanging information/ intelligence through the means available to them that include the Heads of Specialist Units (HSU) Process, Border Liaison Offices (BLOs), police attachés/ police liaison officers assigned in host countries and by sending investigators to cooperate with and to work under the supervision of law enforcement agencies from the host country.
7. Where possible, States are encouraged to establish a case management system and intelligence database that can store, analyse, manage and retrieve intelligence relevant to the entire trafficking process.
8. Standard Operating Procedures (SOPs) should be developed to ensure procedures exist to regulate the collection, analysis, management and dissemination of human trafficking related intelligence. Such SOPs should include a standard format for the collection and sharing of information/ intelligence.

9. Law enforcement agencies commencing the investigation of transnational cases of human trafficking should always consider the use of properly authorised and managed joint investigations done in accordance with national laws and in a way that respects the sovereignty of the States involved.
10. Law enforcement agencies involved in the sharing of human trafficking information/ intelligence with international counterparts should seek greater support to manage common challenges associated with working in different languages and with inadequate budgets.

FORMAL LEGAL COOPERATION

11. Countries within the Greater Mekong Sub-region are encouraged to make greater use of mutual legal assistance and extradition to strengthen the prosecution of appropriate transnational crimes and make more efficient use of the processes involved.
12. Central Authorities need to be adequately staffed and funded to enable them to operate effectively.
13. Personnel assigned to the Central Authority should receive training and/ or knowledge appropriate to their position and responsibilities.
14. Steps should be taken to ensure judges, prosecutors and law enforcement officials are aware of current developments in the use of mutual legal assistance and extradition and of the developing capacity of their Central Authority.
15. Where national laws permit, prosecutors should be exposed to the investigative process at the earliest opportunity so they can advise on investigative strategies aimed at the collection of evidence, including the collection of evidence from other countries, through the use of mutual legal assistance.
16. Standard Operating Procedures (SOPs) should be developed to ensure procedures exist to regulate the effective management of the operations of existing Central Authorities within the COMMIT Region. Such SOPs should include clear requirements for effectively dealing with requests related to mutual legal assistance and extradition.
17. Senior officers from Central Authorities in the Greater Mekong Sub-region should meet on a regular basis to discuss current issues related to formal legal cooperation and to discuss specifics of ongoing cases in a confidential environment.
18. Standardised checklists and forms should be developed for use when making requests for mutual legal assistance or extradition.

19. In compliance with national laws, the possibility of introducing video link-up interviewing for victims/witnesses in transnational cases should be examined.

COOPERATION INVOLVING CRIMINAL JUSTICE AGENCIES AND VICTIM SUPPORT AGENCIES IN TRANSNATIONAL CASES OF HUMAN TRAFFICKING

20. The best interests of victims (and their loved ones) should be considered during their participation in investigations. Risk management plans should be developed that recognise these interests.

21. Victim support agencies that collect information from victims regarding the offences committed against them should share that information with relevant law enforcement agencies where the victim has given their fully informed consent for such information to be shared.

22. Where appropriate, law enforcement agencies that receive information from victim support agencies should provide feedback to the source of the information, recognizing the need to take into account the sensitivities of the police response.

23. If permitted by national laws, policies and procedures:

- Law enforcement agencies and prosecutors should consider engaging victim support agencies during the planning and conduct of operations when appropriate and leveraging the specific areas of expertise provided by those agencies.
- Law enforcement, prosecutors and victim support agencies should cooperate in a way that ensures there is ongoing and effective communication with the victim in their native language during the investigation, prosecution and court trial processes.
- Law enforcement, prosecutors and victim support agencies should cooperate in a way that ensures the victim -witness (and their loved ones) are properly prepared, informed, protected and supported during their exposure to the criminal justice process.
- Law enforcement, prosecutors and victim support agencies from both source and destination countries should consider strengthening their cooperation through the use of written agreements that clearly identify the fundamental principles of cooperation and the respective roles, responsibilities and implementation methods for cooperation.

